

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMMY O'NEIL CHARITY,

Plaintiff, No. 2:11-cv-0689 KJN P

vs.

BOARD OF PAROLE HEARINGS
CHAIRPERSON, et al.,

Defendants. ORDER

Plaintiff is a state prisoner incarcerated at Chuckawalla Valley State Prison in Blythe, California. Plaintiff, who proceeds without counsel, has filed a pleading designated a civil rights complaint pursuant to 42 U.S.C. § 1983, although the contents of the petition suggest that plaintiff may be seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under either construction, the pleading was improperly filed in this court.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1331(b).

1 In this case, none of the defendants reside in this district. The claim arose in
2 Riverside County, which is in the Central District of California. Therefore, plaintiff's claim
3 should have been filed in the United States District Court for the Central District of California.
4 In the interests of justice, a federal court may transfer a complaint filed in the wrong district to
5 the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir.
6 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This court has not ruled on plaintiff's motion to proceed in forma pauperis, or
9 motion to appoint counsel; and
10 2. This matter is transferred to the United States District Court for the Central
11 District of California.

12 DATED: April 12, 2011

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15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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